

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TIMOTHY L. YOUNG	:	CIVIL ACTION
	:	
v.	:	No. 06-2164
	:	
DAVID J. GOOD, THE DISTRICT	:	
ATTORNEY OF THE COUNTY OF	:	
MONTGOMERY, THE ATTORNEY	:	
GENERAL OF THE STATE OF	:	
PENNSYLVANIA	:	

ORDER

AND NOW, this 12th day of September, 2006, upon consideration of the Petition for Writ of Habeas Corpus (Document No. 1), the Respondent/Commonwealth's Answer to Petitioner's Petition for Writ of Habeas Corpus, the Report and Recommendation filed by United States Magistrate Judge Carol Sandra Moore Wells (Document No. 11), and no objections to the Report and Recommendation having been filed, and after a thorough and independent review of the record, it is **ORDERED** that:

- 1) The Report and Recommendation of Magistrate Judge Wells is **APPROVED** and **ADOPTED**;
- 2) The Petition for Writ of Habeas Corpus is **DISMISSED WITHOUT PREJUDICE**;¹ and,
- 3) There is no probable cause to issue a certificate of appealability.

s/ Timothy J. Savage
TIMOTHY J. SAVAGE, J.

¹ Because the petition is being dismissed without prejudice to allow petitioner to file a timely PCRA petition in state court exhausting all claims, it will not be treated as the petitioner's first habeas petition. *Hull v. Kyler*, 190 F.3d 88, 103-04 (3d Cir. 1999)(citations omitted).